

PLANNING BOARD MINUTES  
September 11, 2017  
CASCO COMMUNITY CENTER  
7:00 P.M.

**MEMBERS PRESENT:** Ted Beckner, Ray Grant, Jim Macklin & Lynne Potter

**MEMBERS ABSENT:** Bob Barnes, Stan Buchanan & Edward Phipps

**STAFF PRESENT:** Alex Sirois, CEO; Jim Seymour, Town Planner & Sandy Fredricks,  
Planning Assistant

**PUBLIC PRESENT:** Jerry Bowes, Donna Bowes, Beverly Chamberlain, Brian Chamberlain, Allan Chamberlain, Tom Smith, Debbi Webber and Mark Kingston

Lynne calls the meeting to order at 7:00 p.m.

Lynne states the first item on the Agenda is approval of the August 14, 2017 Minutes.

Ray moves to approve the Minutes as written.

Jim seconds.

Any discussion? None.

All in favor? 3 yes (Ray, Jim & Lynne) – 0 no – 1 abstain (Ted)

Lynne states the next item on the Agenda is an application filed by Thomas F. Smith, Esq. on behalf of Brian and Beverly Chamberlain for Site Plan approval for property known as Map 8, Lot 14-A located on West Fountain Hill Road and commonly known as Settlers Village. Site Plan review is requested to divide the property into individual lots pursuant to the Contract Zoning Agreement approved by Town Meeting on June 14<sup>th</sup>, 2017.

Tom addresses the Board and states he has the recording information for the Contract Zone Agreement and has given three (3) copies to Sandy as requested by the Town. He continues that he believes they have addressed all the concerns the Board has raised. He further states they have made arrangements to have the buffer area marked, they have added the notes as requested and will give the surveyor the CZA recording information to insert onto the Plan.

Lynne asks Jim S. if he has anything additional to add. Jim S. stated the Board has received Alex's report regarding the road and believes that is all set. He then refers to his Memo of September 1<sup>st</sup>, 2017 and states all the Board has to do is review the Subdivision Requirements.

Tom states that the beauty of this project is that there is no change of use so there should be no impact on municipal services, etc.

Jim S. states since it is already built out and is part of the Contract Zone, the Board can either group the Subdivision Requirements review together or you can take each item individually. He states he has no other comments and it makes sense that the Board go through this and give the final approval.

Lynne asks if anyone on the Board has any individual questions on 8.1.1 through 8.1.14. Jim M. and Ray state they do not. Ted agrees.

Jim moves that Sections 8.1.1 through 8.1.14 meet the requirements of the Subdivision Ordinance.

Ray seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain

Jim M. asks if we are just waiting for the mylar to sign. Jim S. states yes with the updated information of abutting property owner.

Jim M. asks if someone will review for the change. Jim S. states yes, either he and/or Alex will do so.

Jim M. moves to grant Final Approval of Settlers Village Subdivision Plan with the condition that the mylar will be reviewed by Jim S. and/or Alex.

Lynne seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain

Lynne states next item on the Agenda is Lake Region Boat Storage and Property Maintenance LLC has submitted an Application for Amendment to an Approved Subdivision for property known as Map 10, Lot 2-2 commonly known as 1076 Meadow Road to create one additional lot to be sold by applicant. The property is located in a Commercial Zone.

Dustin Roma introduces himself to the Board and continues that the property is a little over 10 acres and was originally approved as a Subdivision for Hancock Leasing. He states they are looking to subdivide an 80,000 s.f. portion of Lot 2 on the original Plan. Dustin further states they have received Jim Seymour's Memo addressing a number of items to be submitted for consideration by the Board. He summarizes some of the information such as test pits demonstrating that a septic could be placed on the new lot in the future. He continues that it is shown only to show that the lot is a viable lot; there is no septic or building being proposed by the applicant or the buyer of the newly created lot.

Dustin further states they submitted DOT Entrance Permit approval with the application. There are 2' contours shown on the original plan and they have given potential 2' contours on the new lot. He goes on to state they are not proposing land development on this division, but we wanted to do due diligence to show future uses could hold up.

Additionally, Dustin states that access between the current lot and the newly created lot (Lots 2 and 2A) will take place internally, however, we also show the second approved entrance off of Route 121 in case of change of access between the two lots. He continues that they are hoping the application can be deemed as complete.

Lynne asks Jim S. what he has in regard to this matter.

Jim S. states he has quickly reviewed Dustin's responses and states that in this case we may wish to review the Subdivision Requirements individually rather than grouped together. He continues that the Board needs to first deem the application complete and if applicable then go on to Final approval. It is believed that the Plan needs to have the owner of abutting lot updated as it is shown as 3 Fish Hatchery Road LLC.

Lynne asks if there are going to be buildings built on this lot. Dustin states there is not at this time. Dustin further states that Jim S. had them add a note to the Plan stating that any changes to the use have to be reviewed by the Town (either CEO, Staff Review or Planning Board).

Jim M. questions §8.1.1, conformance with the Comprehensive Plan of the Town. Alex states he wouldn't get too wrapped up in the use at this time.

Lynne moves to accept the application as complete.

Ted seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain

Jim S. states that items 1 through 12 on pages 2 and 3 of his Memo have been taken care of by the applicant. He states, however, #4, he would like to see the Easement and continues that would like to see the easement recorded.

Jerry states they have a written Lease for the access from September 1st, 2017 to August 31st, 2018. There isn't an actual Easement.

Jerry states that he currently owns Lots 2A and 2. He continues that he wants to sell lot 2A to new owner (Guy Roberge) and he wants to give them access over Lot 2.

Guy states he is the owner of Thompson Lake Marina and has been leasing space from Jerry. He continues that he would like to purchase the lot from Jerry rather than to continue leasing the lot.

Ted asks what the access would be for as he sees the buffer there and wonders if they will be accessing through the buffer.

Dustin states the buffer is shown there just to show it for a future use. He continues that they are not planting the buffer for this use.

Lynne asks where the connection is between the two lots. Jerry states both lots are open to each other now. He continues that the main gate is to the right of both lots.

Ray states he doesn't see why we even need to see it on the plans if they are working together with a Lease; if it were a permanent easement then yes, we would need to see it on the plan.

Jim S. states he would like to see something on record with the town. He continues that this is a Commercial Zone and the Town should have something on record even if it is just to provide a copy of the annual Lease agreement to Alex.

Lynne moves to open the public hearing.

Ted seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain

Susanne Whitely states she doesn't understand what's going on. Lynne explains that the smaller lot, 2A, is to be used just for boat storage on that lot. She continues that they have given approval for the curb cut from the State.

Jim S. states we have to prove that the lot will be able to have water and septic even though it is not needed for this use. The Board would need the HHE 200 and septic design which were provided in correspondence from an Environmental Consultant in 2014.

Jim M. states he is concerned with how close the abutters well would be to a new septic. Jim S. states a note can be added that any new septic will be required to meet all Maine State Plumbing Code requirements.

Jim M. moves to close the Public Hearing.

Ted seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain

Jim M. states he would like more time to review this. Lynne states she also would like more time. Ray states he has no concerns. Ted states he is okay with it as it is. Jim S. states it may be beneficial for the Board Members that wish more time to review to do so.

Jerry states that back in 2009 he met with Elwin Thorpe and laid out all the ideas and got a letter from Elwin saying he didn't need to have Site Plan Review. He continues

that everything is the same and if it weren't part of a Subdivision, they wouldn't even be here.

Jim M. asks Alex what potentially could go on an 80,000 s.f. lot. Alex states that it really doesn't apply as it is simply a lot split.

Lynne states she is now more understanding of the situation and she feels she could move forward tonight. She continues that knowing they are operating under permits, they could move forward.

Jim S. states the Board should review §8.1.1 through §8.1.14 which are still the same standards for Subdivision even though this is Commercial. He continues that Dustin has replied to each item in his Memo.

Lynne starts to review these items individually:

*8.1.1 Is in conformance with goals, policies, and recommendations of the Comprehensive Plan of the Town.*

The proposed subdivision is intended to continue to promote commercial use on the property and is be in conformance with the Comprehensive Plan.

The Board agrees this standard is met.

*8.1.2 Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:*

- A) The elevations of the land and its relation to floodplains*
- B) The nature of soils and subsoils and their ability to adequately support waste disposal*
- C) The slope of the land and its effect on effluents*
- D) The applicable State and local health and water resource regulations*

The proposed subdivision is not located in a 100-year floodplain. The soils on the property are classified as Skerry fine sandy loam and are suitable for the installation of a wastewater disposal system as evidenced by the attached Soils Analysis by Albert Frick Associates. The slope of the land is approximately 5% grade, which is not expected to generate erosive conditions.

The Board agrees this standard is met.

*8.1.3 Has sufficient water available for the reasonably foreseeable needs of the subdivision.*

Lot 2A currently does not have a domestic water supply, so a new private well will be required if domestic water is needed. The lot is rectangular in shape with dimensions

that provide suitable space for a well to be located on the property that will accommodate the necessary setbacks to property lines and wastewater disposal fields.

The Board agrees this standard is met.

*8.1.4 Will not cause an unreasonable burden on an existing water supply.*

There is no use proposed that would cause a significant demand on water supply.

The Board agrees this standard is met.

*8.1.5 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.*

We understand that a new commercial project on the property would require Site Plan review by the Town, and would need to demonstrate that site disturbance will be performed in a way that controls erosion and sedimentation. We have prepared a typical erosion control plan to use as a guide for future development activities, which is included for consideration.

The Board agrees this standard is met.

*8.1.6 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed.*

A Driveway Entrance Permit has been obtained from the Maine Department of Transportation. There is no proposed use on the property that will produce unreasonable vehicle traffic, and the site has direct access to Route 121.

The Board agrees this standard is met.

*8.1.7 Will provide for adequate sewage waste disposal.*

The enclosed soils analysis performed by Albert Frick Associates demonstrates that the site has the capability of providing adequate sewage waste disposal.

The Board agrees this standard is met.

*8.1.8 Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage if municipal services/facilities are to be utilized.*

Solid waste removal will be the responsibility of the landowner. If a dumpster is to be located on the property at some point in the future, the landowner will be required to

coordinate with the Town in regard to applicable standards associated with a Site Plan review of a commercial activity.

Ray states that Commercial users are not permitted at the transfer station.

The Board agrees this standard is met.

*8.1.9 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline.*

There are no such locations on the property.

The Board agrees this standard is met.

*8.1.10 Is in conformance with the Casco Zoning Ordinance, including Shoreland Zoning Standards, and with other pertinent state and local codes and ordinances.*

We believe the project is in conformance with all Town ordinances.

The Board agrees this standard is met.

*8.1.11 The subdivider has adequate financial and technical capacity to meet the above standards.*

The project requires no roadway construction or other improvements, so the cost of the project is limited to professional services performed by engineers, land surveyors and attorneys. The applicant has retained consultants with experience in the pertinent areas to complete the project.

Jim M. states that we keep hearing current use and it's a commercial lot that can have any commercial use. Jim S. states we can't hold them to providing financial and technical capacity because they are only splitting off a lot. Jim M. states he feels we are ignoring the future.

The Board agrees this standard is met.

*8.1.12 Whenever situated, in whole or in part, within 250 feet of any pond, lake or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.*

This standard does not apply.

The Board agrees this standard is met.

*8.1.13 Will not, along or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*

The property does not have a use that would adversely affect the quantity or quality of ground water. We understand that any new use or building construction involving commercial activity would be required to obtain Site Plan approval from the Town, which would address this standard in the event that the use is changed or expanded upon.

Jim S. states this would be addressed at the time of change of use.

Lynne asks if we have concerns about oil or fuel leakage. Jerry states that the servicing of the boats is done at the Marina before being brought onto this lot and again after being removed from this lot. They may do shrink wrapping on-site, but that only requires a heat gun.

Lynne states that environmental issues are very important and we need to know what's taking place in Town.

The Board agrees this standard is met.

*8.1.14 In all instances, the burden of proof shall rest upon the applicant (a) to make all required submittals and (b) to demonstrate compliance with all applicable approval standards.*

We understand this requirement and have submitted plans, documents and supporting information to demonstrate compliance with the applicable standards.

The Board agrees this standard is met.

Dustin states they are trying to move this sale to a closing and would like to have it done tonight if possible. Ray states with the little changes we could approve it and then come in to sign the Plan during the week.

Ray moves to approve the Subdivision with the exception of making the change of current abutter and providing the access agreement to the Town.

Ted seconds.

Any discussion? None.

All in favor? 3 yes (Ted, Ray & Lynne) -1 no (Jim M.) – 0 abstain.

Lynne states the next item before the Board is a discussion with Ray Grant regarding a Zoning Change from Village to Commercial for properties on Route 302. Ray states that as in his prior discussion with the Board he is looking to have Lots 8-2 and 8-3 changed from a Village Zone to be a part of the Commercial Zone on the opposite side of 302 which would not make this spot zoning.

Ray states he has gone before the Board of Selectmen after his initial discussion with this Board. The Selectboard indicated they had no problem with the concept but wanted the Planning Board to do it as a full review.

Jim M. asks if there is a process. Jim S. states there are three (3) ways to change a zone. He continues that it is just that though, a process. Jim S. goes on to explain that the Planning Board can start the process, the Board of Selectmen can start the process or a Citizen's Petition can be initiated to start the process. Ray states a final vote is then taken at Town meeting and there would be Public Hearings prior to getting to Town Meeting.

Lynne states that as she stated at the last meeting, it is nothing she wishes to be involved in as a Planning Board member because she doesn't want to open the Pandora's Box. She continues if we didn't permit another applicant to change a zone it would be considered favoritism because Ray is on the Board.

Jim M. states he would want to get input from abutters.

Jim S. states he understands Lynne's point that with Ray being on the Board it could be perceived as favoritism.

Jim M asks if other towns have a similar process. Alex states they do; most towns that use the petition option are those that have a Town Meeting form of government.

Lynne state we also have an email from Stan stating his position on this. (See attached).

Alex states that he suggests we stop referring to "spot zoning"; it is not called "spot zoning", it is a sprawl of the Commercial Zone.

Ray states that Stan's problem is people can't get through that bridge area; where I am situated is back further from that. He continues that the State has also authorized a commercial entrance. Ray further states it may be beneficial to Stan if this is commercial as the State may lower the speed limit there or require a turning lane.

Lynne moves that we move this matter to a Citizen's Petition.

There is no second. The motion is void.

Jim M. asks what does is entailed to obtain a Citizen's Petition. Jim S. states that Ray has to get enough signatures and then the Planning Board reviews the request.

Jim M. moves that the Board undertake the Zone Change request.

Ted seconds.

Any discussion? None.

All in favor? 2 yes (Ted & Jim) – 1 no (Lynne) – 0 abstain (Ray recused himself when he went to the podium).

The motion fails.

Alex states he has one additional item to discuss; the Memorial School Park is planning to do a walking path around the perimeter of the lot. He continues they are applying for a grant which requires they have all permits in place at the time of the application. Unfortunately, there is a time restraint as they must apply by September 29<sup>th</sup>, 2017 for the grant and if they don't make the deadline, then they can't apply until next year.

Alex explains that there will be fill required in excess of the 40 c.y. for which he cannot issue a permit until the Planning Board has reviewed it and approved the fill application. He continues that they are looking at an 8' x 1800' long gravel path; they will be bringing in more than 40 c.y. of fill. Alex states that if Recreation cannot apply for this grant, they will be asking for funding at Town Meeting.

Alex asks Jim S. if there is anything the Board can do to approve this in time for the deadline for the grant submittal.

Ray asks where the path would be. Alex states where the new concession stand is it would go right and around the perimeter; it is all located outside the shoreland area. Alex further states that there was a Site Plan done over the winter which he reviewed as the Site Plan was done by Sebago Technics.

Jim S. states that §5.2.14 B 1 "This Section shall not prohibit normal excavation, removal or fill for construction of a building and driveway for which a building permit has been issued" – technically from parking lot to concession stand – it's on the Site Plan that was approved by Alex as Reviewing Authority. Jim S. asks how the fill comes in. Alex states they are bringing in material from elsewhere. The Board discusses the definition of filling – "Filling – Depositing or dumping any material of fifty (50) cubic yards or more in volume on or into the ground or water." Jim S. continues that if there is no increase, Alex could allow fill up to 40 c.y.

Ted states that it appear for the grant they need approval from the Planning Board. Alex states they could get a letter from him for 40 c.y. this year and then next year.

Jim S. states "E" under Site Plan, it hits Site Plan Review (7.2). Jim S. continues that perhaps there is something he and Alex can do as Review Authority. Alex states that Sebago created the Site Plan and if it's over 10,000 s.f. it has to go to the Planning Board. Jim S. states there doesn't seem to be any wiggle room; if it weren't for the Site Plan Requirement, there may be some wiggle room.

Mark Kingston asks to address the Board. He states that he spoke with the Board of Selectmen as well as the Planning Board and wants to know if the Planning Board has made any progress on looking at relaxing the variance standards.

Lynne states it hasn't been discussed.

Jim S. states we have input from the Town's legal counsel.

Alex states what Mr. Kingston is asking for is for the Town to reduce the side setback to 15' from 25' which would be a similar change from that which we discussed with Ray. He continues that we need to be sure that it doesn't go against the Comp Plan.

Mark states the State has no requirements for the setback, this is just the Town's standards. He continues that there should be some sort of grandfathering for these smaller lots. He continues that we should have some leeway because 25' from the sides and 50' from the pins leaves no room for anything.

Jim S. states we need to check with the Town's attorney because shoreland zoning has to comply with State shoreland.

Alex states that the State focuses on impervious, shoreland setbacks, building coverage etc. and we may have some wiggle room with setbacks. Alex continues that he can talk with Natalie to see if we have any room for changes.

Mark states he wants the setbacks to go by lot size.

Ray states we may want to ask the Fire Chief for his input and also check with the Board of Selectmen.

Mark states if you look at state laws on a small lot there is different variance that allows the Zoning Board of Appeals to grant a variance if its slightly larger lot.

Alex explains that shoreland lots are harder to get variances to protect the shoreland areas. He continues that the first criteria for a variance in shoreland is almost impossible. Additionally, Alex states that Natalie Burns will be at the Selectboard meeting tomorrow night (9/12/17).

Mark states this could be possible by Citizen's Petition to get this change.

Ray moves to adjourn.

Ted seconds.

Any discussion? None.

All in favor? 4 yes (Ted, Ray, Jim & Lynne) – 0 no – 0 abstain